

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6341

BILL NUMBER: SB 637

DATE PREPARED: Nov 24, 1998

BILL AMENDED:

SUBJECT: Hate crimes.

FISCAL ANALYST: Mark Bucherl

PHONE NUMBER: 232-9869

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (A) This bill requires law enforcement agencies to collect information concerning crimes that are motivated by bias and to submit the information to the Indiana Central Repository for Criminal History Information. It also requires the Indiana Central Repository for Criminal History Information to submit a compiled report of this information to each law enforcement agency.

(B) This bill requires the Law Enforcement Training Board and the Superintendent of State Police to include courses in identifying, responding to, and reporting offenses that are motivated by bias in the training programs that law enforcement officers are required to take.

(C) This bill allows a person to bring a civil action to recover actual, consequential, or incidental damages, including damages for emotional distress, resulting from a crime motivated by bias. It also provides that a parent with custody of a child is liable for the full amount of a judgment imposed against the child for a bias motivated crime or institutional criminal mischief.

(D) This bill expands the scope of the crime of institutional criminal mischief to include structures that are used for a religious purpose other than worship and educational facilities that do not qualify as a school. It also defines "motivated by bias" as conduct that is apparently directed at an individual or a group because of the actual or perceived race, color, religion, national origin, sexual orientation, or gender of the individual or group.

(E) This bill increases the penalty of various Class D felonies and misdemeanors, including battery, criminal recklessness, provocation, computer tampering, criminal confinement, residential entry, criminal trespass, computer trespass, intimidation, harassment, and invasion of privacy, when the offense is motivated by bias. It also specifies that a court may impose the death penalty or life without parole for a murder that is motivated by bias.

Effective Date: July 1, 1999.

Explanation of State Expenditures: Provision A may require the addition of a data entry person (and computer equipment) to process information submitted to the State Police. Approximately \$600 annually may be needed for mailing to local law enforcement agencies. The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. There are currently 188 vacancies within the State Police from which a new data entry position could be filled. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. Funding for the Indiana State Police originates from the state General Fund and the Motor Vehicle Highway Fund.

Provision B will cause a minimal expense in adjusting law enforcement officer training standards.

Provision E will affect the following felonies and associated prison terms.

<u>Felony</u>	<u>Prison Term</u>	<u>Avg Time Served</u>
Class B	6 to 20 years	3 yrs., 2 mos.
Class C	2 to 8 years	1 yr., 7 mos.
Class D	6 mos. to 3 years	7 mos.

State expenditures could also be increased if offenders are incarcerated in state prisons rather than in a local jail for this provision's D felony enhancements to what are currently A misdemeanor crimes. The period of incarceration will depend upon mitigating and aggravating circumstances.

This provision also provides for the following: (1) consecutive sentencing for multiple felonies that may include a crime of hate; and (2) life imprisonment without parole or the death penalty for the crime of murder which was motivated by bias.

The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner.

Explanation of State Revenues: (C) The filing fee for civil actions is \$100. Of this fee, 70% or \$70 is deposited in the state General Fund if the case is filed in a trial court. If a civil case is filed in a city or town court, the state General Fund receives 55% of the \$100 filing fee.

(D) (E) More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000 while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: Provision A potentially increases the amount of time that local law enforcement agencies may need to spend in preparing reports that would be submitted to the State Police.

(C) Added civil actions may increase the caseloads of some trial courts or city or town courts. The operating

expenses of the trial courts are paid by the county general fund. The expenses of the city and town courts are paid by the general fund of the city or town in which the court is located.

(D) (E) If defendants are detained in county jails for longer periods due to this provision's enhanced misdemeanor convictions, local expenditures for jail operations may increase. However, if some offenders are sentenced to state prison rather than to a county jail, costs may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is about \$44.

Explanation of Local Revenues: (C) (D) (E) If additional court actions occur guilty verdicts are entered, local governments would receive revenue from the following sources: (1) The county general fund receives 27% of the \$120 court fee assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee is deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana State Police; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Department of Correction; Indiana Sheriffs Association; State Manning Table, Sept 30, 1998; Les Miller, State Police.